



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-014

53-Foot Domestic Dry Containers from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Negative Determination of Critical Circumstances; and Postponement of Final Determination and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("Department") preliminarily determines that 53-foot domestic dry containers ("domestic dry containers") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733(b) of the Tariff Act of 1930, as amended ("the Act"). The period of investigation ("POI") is October 1, 2013, through March 31, 2014. The estimated weighted-average dumping margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective Date: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Brian Davis or John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-7924 or (202) 482-0195, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

The Department published the notice of initiation of this investigation on May 19, 2014.<sup>1</sup> Pursuant to section 733(c)(1)(A) of the Act, on August 28, 2014, the Department postponed this preliminary LTFV determination by a period of 50 days.<sup>2</sup>

### Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport<sup>3</sup> of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including “53-foot containers,” “53-foot dry containers,” “53-foot domestic dry containers,” “domestic dry containers” and “domestic containers.” Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for “instruments of international traffic” pursuant to 19 U.S.C. §1322 and 19 C.F.R. §10.41a may be classified under subheading 9803.00.50, HTSUS.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive. For a complete description of the scope of the investigation, *see* Appendix I to this notice.

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<sup>1</sup> See *53-Foot Domestic Dry Containers From the People’s Republic of China: Initiation of Antidumping Duty Investigation*, 79 FR 28674 (May 19, 2014) (“Initiation Notice”).

<sup>2</sup> See *53-Foot Domestic Dry Containers From the People’s Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 79 FR 51305 (August 28, 2014).

<sup>3</sup> “Intermodal transport” refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

Various parties submitted comments on the scope. For a discussion of these comments, *see* the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Antidumping Duty Investigation of 53-Foot Domestic Dry Containers from the People’s Republic of China: Decision Memorandum for the Preliminary Determination,” dated concurrently with, and hereby adopted by, this notice (“Preliminary Decision Memorandum”).<sup>4</sup> The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Department’s Central Records Unit, located in room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

### Methodology

The Department conducted this investigation in accordance with section 731 of the Act. We calculated export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value (“NV”) in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

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<sup>4</sup> For a list of topics discussed in the Preliminary Decision Memorandum, *see* Appendix II to this notice.

### Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.<sup>5</sup>

### Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist for the exporter-producer combinations listed below during the period October 1, 2013, through March 31, 2014:

Exporter	Producer	Weighted-Average Dumping Margin (Percent)
Hui Zhou Pacific Container Co., Ltd./Qingdao Pacific Container Co., Ltd./Qidong Singamas Energy Equipment Co., Ltd./Singamas Management Services Limited	Hui Zhou Pacific Container Co., Ltd./Qingdao Pacific Container Co., Ltd./Qidong Singamas Energy Equipment Co., Ltd.	153.24
PRC-Wide Entity		24.27

As detailed in the Preliminary Decision Memorandum, China International Marine Containers (Group) Co., Ltd., China International Marine Containers (HK) Ltd., Xinhui CIMC Special Transportation Equipment Co., Ltd., Nantong CIMC-Special Transportation Equipment Manufacture Co., Ltd., and Qingdao CIMC Container Manufacture Co., Ltd. (collectively, “CIMC”), a mandatory respondent in this investigation, did not demonstrate that it is entitled to a separate rate and we consider CIMC to be the PRC-Wide Entity.

### Preliminary Negative Determination of Critical Circumstances

On October 30, 2014, Stoughton Trailers LLC (“Petitioner”), filed a timely critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of domestic dry containers from the PRC.<sup>6</sup> We preliminarily determine that Petitioner’s critical circumstances allegation is

<sup>5</sup> See Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (“Policy Bulletin 05.1”), available on the Department’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>6</sup> See Letter from Petitioner to the Secretary of Commerce, “53-Foot Domestic Dry Containers from the People’s

deficient because it does not contain information regarding how “the importer knew or should have known that the exporter was selling the merchandise at less than fair value and that there was likely to be material injury by reason of such sales.”<sup>7</sup> Therefore, we preliminarily determine that critical circumstances do not exist for Singamas and the PRC-wide entity. A discussion of our determination can be found in the Preliminary Decision Memorandum at the section, “Critical Circumstances.”

#### Disclosure and Public Comment

The Department intends to disclose calculations performed for this preliminary determination to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance, through Enforcement and Compliance’s electronic records system, ACCESS, no later than seven days after the date on which the final verification report is issued in this proceeding.<sup>8</sup> Rebuttal briefs, limited to issues raised in case briefs, may be submitted through ACCESS no later than five days after the deadline for case briefs.<sup>9</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically through ACCESS. Electronically filed case briefs/written comments and hearing requests must

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Republic of China,” dated October 30, 2014.

<sup>7</sup> See section 733(e)(1)(A)(ii) of the Act.

<sup>8</sup> See 19 CFR 351.309(c).

<sup>9</sup> See 19 CFR 351.309(d).

be received successfully in their entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Standard Time. Hearing requests must be received by the Department within 30 days after the date of publication of this notice<sup>10</sup> and should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be presented at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of domestic dry containers from the PRC, as described in the "Scope of the Investigation" section above, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit<sup>11</sup> equal to the weighted-average amount by which NV exceeds U.S. price, adjusted where appropriate for export subsidies<sup>12</sup> and estimated domestic subsidy pass-through,<sup>13</sup> as follows: (1) the cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of PRC

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<sup>10</sup> See 19 CFR 351.310(c).

<sup>11</sup> See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

<sup>12</sup> See section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation, but in the cash deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>13</sup> For further discussion, see the Preliminary Decision Memorandum at the section, "Section 777A(f) of the Act."

exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity, 24.27 percent; and (3) for all non-PRC exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

Furthermore, as stated above and consistent with our practice, we will instruct CBP to require a cash deposit equal to the amount by which NV exceeds the export price or constructed export price, less the amount of the countervailing duty (“CVD”) rate determined to constitute an export subsidy. In this LTFV investigation, with regard to the PRC-wide entity rate (which is based on CIMC’s data),<sup>14</sup> export subsidies constitute 4.75 percent<sup>15</sup> of CIMC’s preliminarily calculated CVD rate in the companion CVD investigation. Therefore, we will offset the PRC-wide rate of 24.27 percent by the CVD rate attributable to export subsidies (*i.e.*, 4.75 percent) to calculate the preliminary PRC-wide entity cash deposit rate for this LTFV investigation.

We are adjusting the preliminary cash deposit rate for estimated domestic subsidy pass-through for Singamas (*i.e.*, 6.39 percent). However, we are not adjusting the PRC-wide entity rate for estimated domestic subsidy pass-through because we have no basis upon which to make such an adjustment.<sup>16</sup>

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<sup>14</sup> For further discussion, *see* the Preliminary Decision Memorandum at the section, “The PRC-wide Entity.”

<sup>15</sup> The following subsidy program in the preliminary determination of the companion CVD investigation is an export subsidy: Export Seller’s Credits from China Ex-Im Bank (4.75 percent for CIMC). *See Countervailing Duty Investigation of 53-Foot Domestic Dry Containers From the People’s Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 79 FR 58320 (September 29, 2014) and accompanying Preliminary Decision Memorandum at 21-22.

<sup>16</sup> *See* Preliminary Decision Memorandum at the section, “Section 777A(f) of the Act.”

### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to requests from the mandatory respondents Singamas<sup>17</sup> and CIMC<sup>18</sup> and Petitioner,<sup>19</sup> we are postponing the final determination. Further, Singamas and CIMC requested to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. The suspension of liquidation described above will be extended accordingly.<sup>20</sup> Accordingly, we intend to make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.<sup>21</sup>

### International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we notified the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this investigation is affirmative, section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, threatened with material injury, or is materially retarded, by reason of imports of domestic dry containers from the PRC, or sales (or the likelihood of sales) for importation, of the merchandise under consideration before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final

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<sup>17</sup> See Letter from Singamas to the Secretary of Commerce regarding “53-Foot Domestic Dry Containers from the People’s Republic of China; Request to Extend Final Determination,” dated November 14, 2014.

<sup>18</sup> See Letter from CIMC to the Secretary of Commerce regarding “Antidumping Duty Investigation of 53-Foot Domestic Dry Containers from the People’s Republic of China: Extension of Final Determination” dated November 17, 2014.

<sup>19</sup> See Letter from Petitioner to the Secretary of Commerce regarding “53-Foot Domestic Dry Containers from the People’s Republic of China,” dated November 14, 2014.

<sup>20</sup> *Id.*

<sup>21</sup> See also 19 CFR 351.210(b)(2) and (e).



determination to 135 days from the date of publication of this preliminary determination the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: November 19, 2014.

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Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

## Appendix I

### Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport<sup>22</sup> of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including “53-foot containers,” “53-foot dry containers,” “53-foot domestic dry containers,” “domestic dry containers” and “domestic containers.” These terms all describe the same article with the same design and performance characteristics. Notwithstanding the particular terminology used to describe the merchandise, all merchandise that meets the definition set forth herein is included within the scope of this investigation.

Domestic containers generally meet the characteristic for closed van containers for domestic intermodal service as described in the American Association of Railroads (AAR) Manual of Standards and Recommended Practices Intermodal Equipment Manual Closed Van Containers for Domestic Intermodal Service Specification M 930 Adopted: 1972; Last Revised 2013 (AAR Specifications) for 53-foot and 53-foot high cube containers. The AAR Specifications generally define design, performance and testing requirements for closed van containers, but are not dispositive for purposes of defining subject merchandise within this scope definition. Containers which may not fall precisely within the AAR Specifications or any successor equivalent specifications are included within the scope definition of the subject merchandise if they have the exterior dimensions referenced below, are suitable for use in intermodal transportation, are capable of and suitable for double-stacking<sup>23</sup> in intermodal transportation, and otherwise meet the scope definition for the subject merchandise.

Domestic containers have the following actual exterior dimensions: an exterior length exceeding 14.63 meters (48 feet) but not exceeding 16.154 meters (53 feet); an exterior width of between 2.438 meters and 2.60 meters (between 8 feet and 8 feet 6 3/8 inches); and an exterior height of between 2.438 meters and 2.908 meters (between 8 feet and 9 feet 6 1/2 inches), all subject to tolerances as allowed by the AAR Specifications. In addition to two frames (one at either end of the container), the domestic containers within the scope definition have two stacking frames located equidistant from each end of the container, as required by the AAR Specifications. The stacking frames have four upper handling fittings and four bottom dual aperture handling fittings, placed at the respective corners of the stacking frames. Domestic containers also have two forward facing fittings at the front lower corners and two downward facing fittings at the rear lower corners of the container to facilitate chassis interface.

All domestic containers as described herein are included within this scope definition, regardless of whether the merchandise enters the United States in a final, assembled condition, or as an unassembled kit or substantially complete domestic container which requires additional

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<sup>22</sup> “Intermodal transport” refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

<sup>23</sup> “Double-stacking” refers to two levels of intermodal containers on a rail car, one on top of the other.

manipulation or processing after entry into the United States to be made ready for use as a domestic container.

The scope of this investigation excludes the following items: 1) refrigerated containers; 2) trailers, where the cargo box and rear wheeled chassis are of integrated construction, and the cargo box of the unit may not be separated from the chassis for further intermodal transport; 3) container chassis, whether or not imported with domestic containers, but the domestic containers remain subject merchandise, to the extent they meet the written description of the scope. Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for “instruments of international traffic” pursuant to 19 U.S.C. §1322 and 19 C.F.R. §10.41a may be classified under subheading 9803.00.50, HTSUS. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.

## **Appendix II**

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